IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

WP(C).No. 22202 of 2005(R)

PETITIONER:

SUDHARMMA @ STELLA,
W/O.LATE ANTHONY SEBASTHIYAR,
MANGALATHU HOUSE, KANNAMANGALAM SOUTH P.O.,
CHETTIKULANGARA, ALAPPUZHA DISTRICT.

BY ADV. SRI.S.PRAKASH

RESPONDENTS:

THE SECRETARY,
EXTERNAL AFFAIRS, CONSULAR SECTION,
PATALIA HOUSE, TILAK MARG,
NEW DELHI-110 001.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/02/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE LETTER SENT BY SAUDI AUTHORITIES TO THE PETITIONER DATED NIL

EXT.P2 TRUE COPY OF THE POWER OF ATTORNEY IN ENGLISH AS WELL AS IN ARABIC VERSION DULY ATTESTED DATED 23.6.2003

EXT.P3 TRUE COPY OF THE LEGAL HEIRSHIP CERTIFICATE IN ENGLISH AS WELL AS IN ARABIC VERSION DULY ATTESTED DATED 19.6.2003

EXT. P4 TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE RESPONDENT

EXT.P5 TRUE COPY OF THE LETTER SENT BY SAUDI EMBASSY TO THE RESPONDENT DATED 6.11.2004.

EXT.P6 TRUE COPY OF POSTAL RECEIPT NO. 656 DATED 20.1.2004

EXT.P7 TRUE COPY OF COMPLAINT FILED BY PETITIONER BEFORE THE SUPERINTENDENT OF POST OFFICE, MAVELIKARA DATED 7.6.2005

EXT.P8 TRUE COPY OF LETTER DATED 27.6.2005 OF SUPERINTENDENT OF POST OFFICES, MAVELIKARA.

EXT.P9 TRUE COPY OF LETTER OFL SUPERINTENDENT MAVELIKARA POST OFFICE DATED 20.7.2005

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 22202 OF 2005

Dated this the 15th day of February, 2007

JUDGMENT

Petitioner is the widow of a person who died in an accident in Saudi Arabia on 15.5.2002. Even though petitioner claimed compensation for the death of her husband in accident, only part of the amount is received. The Indian Consulate at Saudi Arabia vide Ext.P5 has confirmed to Govt. of India that on production of legal heirship certificate and power of attorney, the balance compensation will be claimed and forwarded to the petitioner. According to the petitioner, Exts. P2 and P3 were sent by petitioner to the first respondent on 20.1.2004 which is evident from Ext.P6 postal receipt and inspite of the same the first respondent has not arranged for recovery and payment of compensation. Even though counter affidavit is filed denying receipt of Exts.P2, and P3, I do not think the stand of the first respondent is correct because Exts.P2 and P3 are seen attested by the State Home Department on 11.12.2003 and postal acknowledgement is also produced. Therefore obviously papers would have been misplaced by the first respondent. If compensation is not received on account of delay in first respondent forwarding documents to the Indian Consulate

at Saudi Arabia, then petitioner is free to claim compensation from the Officer of the Govt whose lapses caused it. However, petitioner needs to prove this claim only if compensation is not received from foreign country on account of delay caused by the first respondent. In the circumstances, leaving freedom to the petitioner to claim compensation, if required, from first respondent later, W.P. is disposed of with direction to the third respondent to issue another set of heirship certificate to the petitioner in the place of Ext.P2 on production of a copy of this judgment by the petitioner, and with further direction to the second respondent to attest it immediately on production of the same by the petitioner along with a copy of power of attorney and forward it to first respondent. The first respondent will forward the papers immediately on receipt of the same from the second respondent or petitioner to the Indian Consulate at Saudi Arabia for claiming and forwarding payment to the petitioner. First respondent is directed to co-ordinate with the Indian Consulate at Saudi Arabia and inform the petitioner about the progress of the matter.

(C.N.RAMACHANDRAN NAIR)
Judge